

**CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD**

**URBAN AND RURAL PLANNING ACT, 2000**

**APPEAL**

**BETWEEN** Frazer Goulding **Appellant(s)**

**AND** Service NL **Respondent**

**RESPECTING** Stop Work and Removal Order

**BOARD MEMBERS** Stephen Burbridge, Chair  
Barry Thomson, Member  
Bill Carter, Member

**DATE OF HEARING** August 22, 2018

**IN ATTENDANCE**

Authority: Darren Heart, Regional Support Supervisor, Service NL

Appellant(s): Frazer Goulding  
Glenda Goulding

Secretary to the Central Newfoundland Regional Appeal Board: Robert Cotter  
Technical Advisor to the Central Newfoundland Regional Appeal Board: Christopher Hardy

## **DECISION**

### **Facts/Background**

On October 27, 2017 Service NL conducted a site visit to the Ming's Pit area on Route 410 in response to site clearing and development activity being undertaken by Mr. Goulding. On November 5, 2017 an order was issued by Service NL to Frazer Goulding requiring him to cease construction of an extension to a trailer at Ming's Pit on Route 410 and return the site to the original condition.

Mr. Goulding filed an appeal of the Order on November 14, 2017. During the application process, Mr. Goulding failed to state the grounds upon which he was appealing the Stop Work and Removal Order.

In accordance with the *Urban and Rural Planning Act, 2000*, a public notice of the appeal was published. A copy of this notice was included in the appeals package. Additionally, A notice of the time, date, and place of the Hearing was provided to the appellant(s) and respondent by registered mail.

### **Legislation, Municipal Plans and Regulations considered by the Board**

Urban and Rural Planning Act, 2000 (URPA)

Protected Road Zoning Regulations (PRZR)

### **Matters presented to and considered by the Board**

**Was the subject appeal filed in accordance with the requirements of the *Urban and Rural Planning Act, 2000*?**

No. Mr. Goulding failed to submit any grounds for his appeal as a part of the appeals process. Section 42(5) of the *Urban and Rural Planning Act, 2000* states that:

*An Appeal shall be made in writing and shall include:*

- (a) A summary of the decision appealed from;*
- (b) The grounds for the appeal; and*
- (c) The required fee.*

During the appeal hearing, the Board explained to Mr. Goulding that grounds for appeal was an essential requirement for an appeal. Mr. Goulding acknowledged that he had not filed grounds for the subject appeal and further explained that he would be unable to present such grounds orally as a part of a hearing.

Since the appeal filed by Mr. Goulding did not contain any grounds the Board finds that it was not filed in accordance with the requirements set out in *Urban and Rural Planning Act, 2000*.

**Does the Central Newfoundland Regional Appeal Board have the jurisdiction to hear this appeal.**

It was clearly established that Mr. Goulding was unable to present any grounds for his appeal. As such, it is the position of the Board, that the appeal hearing could not proceed without a waiver of this requirement by the Authority. As was stated by Mr. Justice Goodridge in *Clarke's Trucking and Excavating Ltd. V. Paradise (Town)*, 2015 NTLG(G) 51

*“The statutory requirement under section 42(5)(b) of the URPA, requiring an appellant to set out the grounds of an appeal within the 14-day initial filing period, exists for the sole benefit of the responding party. It can be waived by the responding party without impacting the Board's jurisdiction to hear an appeal.”*

The Board asked Mr. Heart if he was prepared to waive this requirement and proceed with the hearing without a stated “grounds of appeal”. Mr. Heart indicated that he was not prepared to do so.

Based on the appellant failure to indicate grounds for his appeal and the respondent's refusal to waive this requirement it is the position of the Board that it does not have jurisdiction to hear the appeal.

## **Conclusion**

In arriving at its decision, the Board reviewed the submissions and comments given by all parties present along with the technical information and planning advice.

The Board is bound by section 42 of the *Urban and Rural Planning Act, 2000* and therefore must make a decision that complies with the applicable legislation, policy and regulations.

Based on its findings, the Board determined that it lacks jurisdiction to proceed with the appeal hearing. The appeal is dismissed.

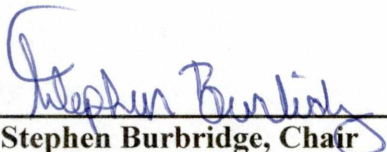
**Order**

Based on the information presented, the Board orders that it had no jurisdiction to consider the subject matter of the appeal, namely the Stop Work and Removal Order issued to the Appellant by Service NL on November 5, 2017.

The Respondent and the Appellant(s) are bound by this decision of the Central Newfoundland Regional Appeal Board.

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Central Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later than ten (10) days after the Board's decision has been received by the Appellant(s).

**DATED** at Grand Falls Windsor, Newfoundland and Labrador, this 22 day of August, 2018



**Stephen Burbridge, Chair**  
**Central Newfoundland Regional Appeal Board**



**Barry Thomson, Member**  
**Central Newfoundland Regional Appeal Board**



**Bill Carter, Member**  
**Central Newfoundland Regional Appeal Board**